

**Department of Justice
Executive Office for United States Trustees**

**Final Agency Action
Case No. 06-0002**

**Review of the Decision of the
United States Trustee for Region [redacted]
Regarding Chapter 7 Trustee [redacted]**

[redacted] a chapter 7 panel trustee for the District of [redacted] (the "trustee"), seeks review of a decision by the United States Trustee for Region [redacted] suspending the assignment of cases to her for a minimum of 180 days until she meets certain conditions for reinstatement. Based upon the record before me, I affirm the United States Trustee's decision for a 180-day minimum suspension.^{2/} I modify slightly one of the six conditions of her reinstatement, as described herein.^{3/}

I. Course of this Proceeding

The trustee has served since [redacted] By a Notice of Suspension ("Notice") dated December 14, 2006, the United States Trustee informed the trustee that she would not be assigned chapter 7 cases for a minimum of 180 days until she met certain conditions for

^{1/} United States Trustees are Justice Department officials appointed by, and who serve at the pleasure of, the Attorney General. 28 U.S.C. § 581(a), (c). The Director of the Executive Office for United States Trustees is a Justice Department official who acts under authority delegated by the Attorney General.

^{2/} [redacted]
[redacted] Acting Deputy Director, Donald F. Walton, was designated by the Director to serve as the reviewing official.

^{3/} The record in this matter includes the United States Trustee's Notice of Suspension, which contained the 2006 Field Examination Report; the trustee's Request for Review; the United States Trustee's Response; all exhibits and documents thereto attached or incorporated by reference; and the results of several online PACER searches of bankruptcy dockets.

^{4/} The trustee had earlier served as a chapter 7 panel trustee in the [redacted] but resigned voluntarily. See December 20, 2006, letter to the United States Trustee at 1.

reinstatement. Notice at 1. On January 4, 2007, the trustee filed an untimely^{5/} request for review under 28 C.F.R. § 58.6 with the Director of the Executive Office for United States Trustees (“Request for Review”).^{6/} On January 19, 2007, the United States Trustee filed a Response to the Request for Review (“Response”).

II. The United States Trustee’s Decision

In the Notice, the United States Trustee cited two fundamental reasons for the suspension: adverse findings in the Report of the United States Trustee’s Field Examination dated December 14, 2006 (“2006 Field Examination Report”); and delays in the trustee’s filing of trustee final reports (“TFRs”) in two cases.^{7/} The United States Trustee also noted several other factors and laid out six specific conditions that the trustee must meet for reinstatement.

A. Trustee’s 2006 Field Examination

The trustee received a rating of inadequate in the 2006 Field Examination Report. The Handbook for Chapter 7 Trustees requires suspension from panel rotation if a field examination results in such a rating. *See Handbook for Chapter 7 Trustees (July 2002) at 10-2 (hereinafter “Handbook”).*

^{5/} 28 C.F.R. § 58.6(b) provides that a request for review be received no later than 20 calendar days from the date of the United States Trustee’s notice to the trustee. In this case, the trustee’s request was due by January 3, 2007. The trustee’s request was two days late; it was received on January 5, 2007. In this particular case, I will consider the merits of the trustee’s request for review, despite her failure to timely file.

^{6/} The trustee’s one-page January 4, 2007, letter requested that I consider as the basis of her appeal the December 20, 2006, letter and documents that she sent to the United States Trustee. I therefore refer to the December 20, 2006, letter as the “Request for Review.”

^{7/} The United States Trustee also listed three reasons for suspending the trustee pursuant to 28 C.F.R. § 58.6(a): failure to safeguard or to account for estate funds and assets; failure to perform duties in a timely and consistently satisfactory manner; and failure to file timely, accurate reports. *See* 28 C.F.R. § 58.6(a)(1), (2), (8). The regulation specifies that the “reasons [for suspension] may include, but are in no way limited to” those listed in the regulation. *Id.* (a).

On pages 1-2 of the Notice, the United States Trustee set forth specific shortcomings identified in the 2006 Field Examination Report, which reviewed eight selected cases as well as the trustee's general operations^{8/}:

- Failure to maintain adequate records of estate property, including failure to maintain documentation to support valuation of assets.
- Failure to perform trustee duties in a timely manner, including failure to consistently initial and date bank statements to verify review of reconciliations.
- Failure to provide adequate documentation of estate transactions, including missing cancelled checks and bank statements.
- Failure to adequately record estate transactions, including failure to include the gross amount of sale/auction proceeds and a breakdown of deductions.

B. Trustee's Delays in Filing TFRs in Two Cases and Other Factors Supporting Suspension

The Notice also cited the trustee's delays in filing accurate TFRs in two designated cases. In the first case, the trustee failed to take action for nine months after the United States Trustee returned the initial TFR for corrections. In the second case, the trustee took longer than six months to submit an amended TFR after the United States Trustee returned the initial TFR for corrections. Further details regarding these cases are described below in the Analysis section.

In addition, the Notice stated that it took into account past audits and field examinations of the trustee's operations, which identified problems similar to some in the 2006 Field Examination Report.^{9/} The Notice cited a 2005 Audit conducted for the United States Trustee that concluded that the trustee's overall practices and procedures were adequate, but which identified the following problems that were again identified in the 2006 Field Examination Report:

- omission of assets from Form 1;

^{8/} It appears that item 5 on page 2 of the Notice is entirely duplicative of item 2 on the same page. The Response withdrew as a ground for suspension the Notice's concern that materials in a particular case were not readily accessible for review during the 2006 Field Examination. See Response at 6; Notice at 6.

^{9/} Although the Notice also mentions the trustee's "evaluation record" as a factor taken into account, it is unclear what evaluation record the Notice is referencing aside from the past audits and field examinations. Notice at 1. The Notice makes no further mention of the trustee's evaluation record.

- filing untimely Reports of Sale; and
- failure to consistently initial and date bank statements to verify the trustee's review of reconciliations.

The Notice also cited a 2001 Field Examination Report, which concluded that the trustee's overall practices and procedures were adequate, but which identified the following problems that were again identified in the 2006 Field Examination Report: omission of assets from Form 1; and failure to include the gross amount of sale/auction proceeds and a breakdown of deductions.

Finally, the Notice cited a 1999 Audit by the Justice Department's Office of Inspector General ("1999 OIG Audit"), which concluded that the trustee's practices and procedures were inadequate. Among other adverse findings, the 1999 OIG Audit found no evidence that the trustee had performed monthly bank reconciliations, and described numerous instances where transaction descriptions and asset reference numbers were missing from Form 2.

C. Conditions for Reinstatement

In the Notice, the United States Trustee listed six conditions that the trustee must meet before she can be reinstated to active case assignments on the panel of chapter 7 trustees in the Division^{10/}:

1. The trustee must file and obtain United States Trustee approval of corrected TFRs in the two designated cases.
2. The trustee must file and obtain United States Trustee approval of TFRs in 29 cases that the trustee indicated will be ready to close within the next 180 days.
3. The trustee must file a Trustee Distribution (Zero Balance) Report in a designated case.
4. The trustee must file a Trustee Interim Report for the six-month period ending November 30, 2006, and for every six-month period thereafter.
5. The trustee must correct every identified deficiency in the 2006 Field Examination Report, for the cases identified therein and all cases under the trustee's administration, and permit members of the United States Trustee's staff to review and verify compliance with this condition by reviewing the identified cases and a sample of other cases under the trustee's administration.

^{10/} The Notice also noted that the approval of the Deputy Director, Executive Office for United States Trustees, is required for case assignments to resume. Notice at 5; Handbook 9-26.

6. The trustee must certify that the trustee has read and is in compliance with the Handbook.

III. Standard of Review

In conducting this review, the Director must consider two factors:

1. Did the United States Trustee's decision constitute an appropriate exercise of discretion; and
2. Was the United States Trustee's decision supported by the record?

See 28 C.F.R. § 58.6(I) (specifying the scope of the Director's review).

The Director may “adopt, modify or reject the United States Trustee’s decision to suspend or terminate the assignment of future cases to the trustee.” *Id.*

IV. Analysis

A. Duties of the United States Trustee and the Panel Trustee

United States Trustees supervise chapter 7 panel trustees, 28 U.S.C. § 586(a)(1), and appoint them to individual chapter 7 cases. 11 U.S.C. § 701. The United States Trustees “carefully monitor the performance of panel members . . . in order to determine whether they should be continued in or removed from panel membership.” H.R. Rep. No. 95-595, at 102 (1977). “The United States trustee is permitted to conduct his own investigation . . . to exercise effective supervision and make effective evaluation of the performance of the private trustees on the panel.” *Id.* at 110.

Panel trustees are fiduciaries with wide-ranging responsibilities to effectuate the goals of the particular chapter under which a bankruptcy is filed. As fiduciaries, trustees are held to very high standards of conduct. *See generally Woods v. City National Bank & Trust Co.*, 312 U.S. 262, 278 (1941); *Mosser v. Darrow*, 341 U.S. 267 (1951). *See also Meinhard v. Salmon*, 249 N.Y. 458, 464, 164 N.E. 545, 546 (1928) (Cardozo, C.J.).

The goals of the United States Trustee Program include protecting the public interest by ensuring efficiency in the administration of cases and by protecting the integrity of the

bankruptcy system. *See* United States Trustee Program's Mission Statement.^{11/} In striving to fulfill these goals, United States Trustees are entitled to expect, and indeed should demand, that the trustees under their supervision perform their duties at the high standards that are required of fiduciaries. In furtherance of these goals, United States Trustees and their staffs should notify trustees at the earliest opportunity of any inadequacies in their performance so that any such deficiencies can be resolved promptly.

It is against these high standards that the United States Trustee's decision to suspend the assignment of chapter 7 cases for a minimum of 180 days must be assessed. The United States Trustee determined that the trustee's conduct was deficient in two fundamental areas. I evaluate the record in light of each of these determinations, consider other factors, and review the reinstatement conditions.

B. The Trustee's 2006 Field Examination Report

Field examinations are conducted periodically by personnel of the United States Trustee Program.^{12/} The 2006 Field Examination Report concluded that the trustee's procedures appeared inadequate for asset administration and case progress, protection of estate assets and funds, and financial record keeping and reporting. An inadequate opinion "means that the quality of the trustee's accounting and cash management practices and procedures was inadequate for the safeguarding of bankruptcy estate funds." Handbook at 9-26.

Among other duties, trustees are required to liquidate the property of an estate and close a case as expeditiously as is compatible with the best interests of all the parties in interest. 11 U.S.C. § 704(a)(1). They are also "accountable for all property received," 11 U.S.C. § 704(a)(2), and must furnish reports and information about their administration of cases, 11 U.S.C. § 704(a)(7), (8). In carrying out their supervisory responsibilities, United States Trustees require trustees to document their administration of estate funds.

The trustee concedes some of the findings in the 2006 Field Examination Report, including missing cancelled checks, missing bank statements, failure to list the gross amounts of sale proceeds and breakdown of deductions, and an incomplete description of a transaction. Request for Review at 4. The trustee also concedes that she failed to verify her review of

^{11/} The United States Trustee Program's Mission Statement provides as follows:

The United States Trustee Program acts in the public interest to promote the efficiency and to protect and preserve the integrity of the bankruptcy system. It works to secure the just, speedy, and economical resolution of bankruptcy cases; monitors the conduct of parties and takes action to ensure compliance with applicable laws and procedures; identifies and investigates bankruptcy fraud and abuse; and oversees administrative functions in bankruptcy cases.

^{12/} In this case, the field examination was conducted the week of September 11, 2006.

monthly bank reconciliations, but cites as an extenuating circumstance her sister's death from cancer in May 2006 after diagnosis in January 2005. *Id.*

The trustee fails to rebut the findings in many of her other responses. For some findings, for example, the trustee's response is that they should not be considered repeat findings from earlier field examinations or audits. *See* Request for Review 2-4. This offers no challenge to the findings themselves regarding the trustee's omission of assets from Form 1,^{13/} her incorrect use of Uniform Transaction Codes, and her omission of reference numbers. The trustee provided "recreated" written documentation with her Request for Review to address the finding of her failure to keep documentation for her decisions to abandon assets in a specified case. *See* Request for Review at 3. These documents fail to establish, however, that a crucial practice was and is in place. That is, that key documents should exist and be locatable in a trustee's files *before* a field examination to properly account for activities conducted on behalf of the estate. Similarly, although the trustee disputes the finding that she did not maintain documentation of her efforts to collect accounts receivable in one case, *see* Request for Review at 3, her explanation does not explain why the proper documentation was not in the case file. It is not acceptable that crucial documentation regarding estate administration should be located only in a wholly separate "legal time file" maintained by the trustee's law firm.

The trustee also disputes the finding that she failed in most of the cases reviewed to document the basis for asset valuation on Form 1. Request for Review at 2. The trustee's response appears only to address the valuation of assets to be abandoned, rather than the broader issue found with her documentation for any assets. The trustee also miscites Handbook 8-3 as requiring that "any written" documentation be kept supporting a decision to abandon; in fact, it requires retention of "any" documentation. The trustee argues that she is not required to make written documentation of calls to real estate agents or on-line checks regarding asset valuation, but she fails to account for the requirement that she be able to justify abandonment decisions. *See* Handbook 8-3. The trustee's failure to keep any documentation whatsoever interferes with her duties of accountability for estate property. The Handbook notes that Form 1 "compares the debtor's opinion" of an asset's value to the "trustee's estimated net value"; the trustee's practices, however, appear to offer no real comparison between the two values.

In his Response, the United States Trustee concedes that the trustee's Request for Review rebuts the findings of the 2006 Field Examination Report regarding the filing of tax returns, maintaining evidence of insurance, and following up on potential assets. Response at 3. But, the

^{13/} The trustee suggests that she was aware of the omitted assets, but generally amends case files only prior to filing a TFR. Request for Review 2-3. This answer turns a blind eye to what has driven past adverse findings on the omission of assets: failing to include assets in open cases well before a TFR is prepared. The United States Trustee notes that the Schedules for the cases examined were amended seven months before the 2006 Field Examination, but that the trustee never modified the Forms 1 to include valuable assets. This speaks adversely to the trustee's accountability and commitment to having accurate records of assets being administered. *See* Response at 5.

Response correctly notes that if the appropriate documentation had been present when the field examination was conducted, the trustee would have avoided these findings. *Id.*

I need not consider the findings regarding the trustee's failure to expeditiously close cases or the disorganization of the trustee's case files because the other findings from the 2006 Field Examination Report offer ample support for the United States Trustee's suspension decision. Finally, I have not considered several other audit items that the trustee seeks to rebut in her Request for Review because they were not cited in the Notice as grounds for suspension.^{14/}

C. The Trustee's Delays in Filing Accurate TFRs in Two Cases

Section 704(a)(1) of the Bankruptcy Code provides that a trustee shall close an estate as expeditiously as is compatible with the best interests of the estate. Delays in case closure diminish the distribution to creditors, undermine creditor and public confidence in the bankruptcy system, and increase the panel trustee's exposure to liability. *See Handbook at 8-42.* One of the prerequisites to case closure is the filing of a TFR with the court after approval by the United States Trustee. Section 704(a)(9) of the Code specifies that a trustee shall make a final report and file a final account of the administration of the estate with the court and with the United States trustee. 11 U.S.C. § 704(a)(9).

A TFR summarizes all actions taken by the trustee in administering the case. Reviewing TFRs enables United States Trustees to determine whether trustees are adequately protecting debtors and creditors, effectively managing estates, and detecting fraud. TFRs are, therefore, a valuable supervisory tool. The Handbook provides that a United States Trustee review a TFR ". . . to assess whether the trustee has properly and completely administered estate property. The United States Trustee examines exemptions, abandonments, sales or other liquidations, ensures inclusion of all necessary court orders, and verifies the accuracy of calculations." Handbook at 8-38.

To the extent that deficiencies are detected in a TFR, a trustee is generally given an opportunity to correct the problems identified and report such corrections to the United States Trustee. *See Handbook at 8-38.* In this way, United States Trustees can fulfill their mandates to "carefully monitor the performance of panel members . . . in order to determine whether they should be continued in or removed from panel membership." H.R. Rep. No. 95-595, at 102 (1977).

In this case, long delays and technical shortcomings associated with the TFRs in two designated cases indicate significant problems with the trustee's ability to file timely, accurate reports of her administration.

^{14/} The trustee sought to rebut the 2006 Field Examination Report's findings regarding failure to list the gross amount of sale in Form 1, failure to maintain cancelled checks in the financial section of estate files, and Form 1 heading issues.

1. First Designated Case with TFR Issues

In March 2006, the trustee submitted a proposed TFR regarding this case to the United States Trustee. By response letter later that month, United States Trustee personnel identified a list of serious problems with the TFR and requested a response. About one month later, having heard no response, United States Trustee personnel sent the trustee a letter returning the TFR. As of December 14, 2006, the United States Trustee had not received a corrected TFR. Notice at 3. The Response notes that a corrected TFR was filed with the court on January 5, 2007. Response at 3. On January 8, 2007, the trustee filed a motion to abandon property, which was granted on February 5, according to PACER.

The trustee disagrees with the United States Trustee's finding that she failed to take prompt corrective action in revising the TFR because: (1) she did respond to the United States Trustee's office, and (2) the first time that the United States Trustee office discussed how to remedy the situation was in December 2006. Request for Review 5-6. The trustee also cites her sister's death from cancer in May 2006 as a reason for the delay. *Id.* at 2, 6. The trustee also claimed that the case "does not require a corrected TFR," but that she will submit a notice to abandon to the court, as per a recent agreement with United States Trustee personnel. Request for Review at 7. In fact, the trustee subsequently filed both a TFR and a motion to abandon.

I give consideration to the trustee's death in the family and accept a temporary adverse effect on her performance, but find that the trustee's delay and dearth of communication regarding the TFR is a significant shortcoming in her administration of this case. I find the trustee's others arguments not well taken. I have no evidence that the trustee took any affirmative steps whatsoever regarding the TFR for a nine-month period in 2006. Despite the trustee's contention that she responded to the United States Trustee's office, there is nothing in the record indicating any response from the trustee from March 2006 until a December 2006 discussion with United States Trustee personnel. The emails that the trustee included with her Request for Review predate and are irrelevant to the issues raised with the TFR. It was the trustee's duty to remedy the shortcomings identified by the United States Trustee.

2. Second Designated Case with TFR Issues

In this case, the trustee submitted a proposed TFR to the United States Trustee in December 2005, which was returned by letter in February 2006 for a number of significant problems, including claims analysis issues and the incorrect calculation of trustee compensation. *See* Notice at 3. The trustee discussed the case in several August 2006 emails with United States Trustee personnel. A revised TFR was not received, however, until September 2006.

The United States Trustee office returned the revised TFR for significant errors by letter in November 2006. The letter noted that the revised September 2006 TFR failed to include the United States Trustee's claim for quarterly fees, as well as a large claim for payment of a preference settlement. Response at 4. The letter stated that because of the errors and delay, the United States Trustee office would only approve a distribution along the lines of an exhibit included with the letter which illustrated the differences between the United States Trustee and

trustee calculations. United States Trustee personnel met with the trustee to review the case in late November 2006. The trustee rectified the errors identified in a proposed distribution provided to the United States Trustee on December 11, 2006. A corrected TFR has not yet been received.

As with the TFR for the first designated case, the trustee's arguments here are less than convincing.^{15/} The trustee claims that the February 2006 return of the TFR was belated and that the case was complicated.^{16/} She also argues that no one from the United States Trustee's office met with her until December 2006.^{17/} Request for Review at 6. None of these statements address the poor quality of her initial and revised TFRs. While she concedes that there was an error in calculating her trustee compensation, the trustee blames a computer error and stated that a letter from United States Trustee personnel on the issue was "extremely hostile." *Id.*^{18/}

There is no adequate explanation before me for the lengthy delay between the return of the TFR in February 2006 and the trustee's provision of a revised TFR in September 2006. I am troubled by the trustee's inability to accept responsibility for her own work product and to recognize the importance of timely estate management. At the same time, I do give consideration to the trustee's death in the family. Even giving that consideration, however, I note that the problems with the revised TFR clearly postdate the trustee's family issue. The two letters from the United States Trustee's office clearly laid out the problems with the TFRs and provided a framework for approvable distributions in the case. The trustee has nonetheless still failed to provide a corrected TFR to the United States Trustee.

^{15/} Because the United States Trustee and the trustee are in disagreement over proper trustee fees in this case and that matter is before the court, the trustee argues that the case is too complex to address in this suspension proceeding. Request for Review at 6. The United States Trustee agrees that trustee compensation should not be an issue in the instant appeal, but argues that the delay with the TFR is appropriate for my review. Response at 6. I agree with the United States Trustee.

^{16/} For example, the trustee states that the United States Trustee personnel's "interpretation [from the November 20 letter] pre-supposes that the compromise that I negotiated should be interpreted to pay creditors in exactly the same way as if they had been paid only once in a lump sum distribution. It involves an interpretation of the section of the Code that prohibits payments to individuals that still owe outstanding preference claims." Request for Review at 6.

^{17/} This statement appears slightly inaccurate. It appears that the trustee had a meeting with United States Trustee staff on November 29, 2006.

^{18/} Similarly, the trustee elsewhere in her Request for Review suggests that there has been "some substantial hostility in my treatment," noting particularly the "tone" of a November 2006 letter from United States Trustee personnel. Request for Review at 6, 8. Having reviewed the letter, I disagree. The letter in question was professional in tone, squarely discussed the specific problems with the TFR, and established reasonable ground rules for completing the TFR in the case.

D. Other Factors

Taken by itself, the 2006 Field Examination Report illustrates that the quality of the trustee's accounting and cash management practices and procedures was inadequate for the safeguarding of bankruptcy estate funds. The report's findings, in combination with the TFR issues in the two cases described above, provide sufficient grounds for affirming the United States Trustee's 180-day minimum suspension. I also note that certain of the shortcomings identified in the 2006 Field Examination Report were repeat findings.

Although the trustee disputes the characterization of some of the findings in the 2006 Field Examination Report as repeat findings, I do not accept her argument regarding probably the most significant repeat finding – the omission of assets from Form 1. Prompt and proper inclusion of assets is a particularly important trustee duty. It is one that was flagged not only in 2006, but in the 2005 Audit and the 2001 Field Examination Report. The trustee claims that the prior findings relate only to a paralegal's mistake over including nominal assets on Form 1, *see* Request for Review 2. However the 2001 Field Examination Report outlined a case where the trustee failed to list any of the assets listed in the debtor's schedules.

The trustee raises no procedural issues with the 2006 Field Examination, but only now claims that the 2005 Audit came with inadequate prior notice and occurred in the midst of Jewish holidays. Request for Review at 1. The Response notes that the trustee raised no concern until the current appeal regarding the inadequate notice and/or the Jewish holidays in relation to the 2005 Audit. Response at 4. The trustee had the opportunity to address these issues at an earlier juncture. I decline to address them now. The trustee offers, I add, no evidence to support her contentions.

I note that it was incorrect for the trustee to attribute to United States Trustee personnel the statement that the 2006 Field Examination was conducted because personnel "could select to examine any trustee that [personnel] wanted at any time." *See* Request for Review at 2. In fact, on July 18, 2006, United States Trustee personnel responded to the trustee's request for an explanation for the upcoming audit by stating in an email that although personnel are "allowed to schedule discretionary Field Exams at any time," in this case it was being requested "because of concerns about your case administration."

Finally, I need not consider the trustee's closing statistics to make my decision in this particular case. The trustee was suspended for reasons clearly centered around the quality of her trustee work, not the quantity of her caseload or her relative speed in closing cases under her watch. As noted above, in this appeal, I also do not consider the trustee's alleged failure to expeditiously close cases as noted in the 2006 Field Examination Report.

E. Conditions for Reinstatement

If a trustee has been suspended, implementation of corrective actions, a follow-up visit by the United States Trustee, and the approval of the Deputy Director, Executive Office for United States Trustees, are required before case assignments can resume. Handbook at 9-26.

Of the six conditions specified for reinstatement in the suspension notice, the trustee stated that she has already complied with condition three, and that she will comply with conditions four and six. Request for Review at 7. Condition one has already been partially satisfied, as the trustee filed an approved TFR in the first designated case. *See* Response at 3. The trustee should also file an approved TFR in the second designated case. The trustee may also, as she wishes, submit the report to the court for its determination. *See* Request for Review at 7.

The various shortcomings shown with the trustee's administration of cases emphasize the importance of ensuring that she adjusts her practices for all of her cases, not simply those that were reviewed in the 2006 Field Examination. Condition five of reinstatement, therefore, is appropriate: the trustee must correct every identified deficiency from the 2006 Field Examination Report for all cases under her administration and allow the United States Trustee to review and verify compliance.

In sum, the conditions for reinstatement are proper in this case, subject to one modification as suggested by the Response. Condition two is modified, so that the trustee must receive approval for TFRs for 29 cases indicated as ready to close within 180 days, but a case may be removed from the list if the trustee shows to the satisfaction of the United States Trustee that there is benefit to the estate or to the administration of the bankruptcy system in leaving the case open.

V. Conclusion

In reaching a decision on this matter, I am bound by the applicable standard of review. The Director "shall determine whether the United States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion." *See* 28 C.F.R. § 58.6(I).

I affirm the suspension. The trustee is suspended for a minimum of 180 days, until she meets the six reinstatement conditions. I modify only condition two of the United States Trustee's reinstatement conditions, as described above.

The trustee needs time to upgrade her practices and procedures and demonstrate that her office is committed to a consistent practice of submitting timely and accurate TFRs before taking on the administration of new cases. A suspension is an appropriate remedy to give the trustee an opportunity to undertake and complete corrective action before serving as fiduciary for new bankruptcy estates.

The United States Trustee's corrective action is directed to remediate and prevent the deficiencies that led to the trustee's suspension. It should produce the desired result of improved

administrative performance by the trustee. I encourage the trustee to use the suspension period to reestablish her credibility with the United States Trustee and to demonstrate her commitment to substantially improving her practices and procedures.

The foregoing conclusions and decisions constitute final agency action in this matter.

Dated: February 28, 2007



Donald F. Walton
Acting Deputy Director
Executive Office for U.S. Trustees